

REMARKS

Claim 32 is now pending in the application. The only outstanding rejection of the sole claim 32 is a formalistic indefiniteness rejection of the claim language. The Examiner is respectfully requested to reconsider and withdraw this rejection in view of the amendments and remarks contained herein.

ARGUMENT

Claims 21-31 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

Regarding this section of the statute, MPEP § 2173 states:

The primary purpose of this requirement of definiteness of claim language is to ensure that the scope of the claims is clear so the public is informed of the boundaries of what constitutes infringement of the patent.

. . .

*A fundamental principle contained in 35 U.S.C. 112, second paragraph is that applicants are their own lexicographers. They can define in the claims what they regard as their invention essentially in whatever terms they choose so long as **>any special meaning assigned to a term is clearly set forth in the specification. See MPEP § 2111.01.< Applicant may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought. As noted by the court in In re Swinehart, 439 F.2d 210, 160 USPQ 226 (CCPA 1971), a claim may not be rejected solely because of the type of language used to define the subject matter for which patent protection is sought. (emphasis added)*

MPEP 2173.02 § states:

*The examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph, is whether the claim meets the threshold requirements of clarity and precision, not whether more suitable language or modes of expression are available. When the examiner is satisfied that patentable subject matter is disclosed, and it is apparent to the examiner that the claims are directed to such patentable subject matter, he or she should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness. **Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire. Examiners are encouraged to suggest claim language to applicants to improve the clarity or precision of the language used, but should not reject claims or insist on their own preferences if other modes of expression selected by applicants satisfy the statutory requirement. (emphasis added)***

U.S. Patent No. 6,886,607 was examined in Group Art Unit 3751 and is presumed to be valid and meet all of the statutory requirements. Claim 1 of the '607 patent is set forth below:

- 0 What is claimed is:
- 0 1. A function liquid filling apparatus which fills a passage inside a function liquid droplet ejection head connected to a function liquid tank with a function liquid in said function liquid tank by coupling a head cap connected to a waste liquid passage to said function liquid droplet ejection head, thereby feeding the function liquid toward said head cap through said function liquid droplet ejection head, said apparatus comprising:
- 5 feed means for feeding the function liquid in the function liquid tank toward said head cap through said function liquid droplet ejection head;
- 0 detection means for detecting a state in that the fed function liquid reaches said head cap; and
- control means for stopping drive of said feed means based on a result of detection by said detection means,
- 5 wherein said detection means comprises a crystal oscillator disposed in at least one of inside said head cap and inside said waste liquid passage, and a detector for detecting presence or absence of the function liquid based on a change in a resonance frequency of said
- 0 crystal oscillator.

It is submitted that Applicant's claim 32 has similar format and linguistic attributes as the '607 Patent claim 1. While this might not be dispositive of this issue, it is strong evidence that Applicant's claim meets statutory muster.

Applicant's claim language, while admittedly not in the King's English, does clearly apprise the public of the meets and bounds of the invention. Thus, the rejection is not proper. However, *Applicant would be receptive to receiving any suggestions* from the Examiner that he might offer in order to expedite prosecution of this application, as one RCE has already been filed.

ENTRY OF THIS AMENDMENT AFTER FINAL IS PROPER

While Applicant believes that previous claim 32 meets all of the statutory requirements, he has deleted allegedly offending language in the preamble. Entry of this amendment is proper since no new issues are raised and, in any event, entry thereof would reduce the issues on appeal, if that action becomes necessary.

REQUEST FOR INTERVIEW

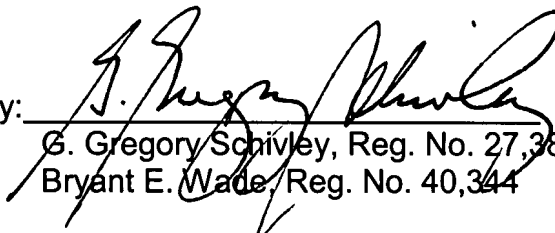
In the event that this amendment does not place this application in condition for allowance, Applicant requests a telephonic interview with the Examiner and his supervisor before issuing an Advisory Action.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: Nov 27, 2007

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